

**ZONING BOARD OF APPEALS**

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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ZBA 2010-27  
Petition of NDNE Lower Falls LLC  
27 Washington Street

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 15, 2010 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of NDNE LOWER FALLS LLC requesting a Special Permit pursuant to the provisions of Section IXB and Section XXV of the Zoning Bylaw to use a portion of the retail/office building to be constructed at 27 WASHINGTON STREET for individual retail space in excess of 10,000 square feet, in the Lower Falls Village Commercial District.

On March 24, 2010, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Bob Davis, Goulston & Storrs, who said that he was representing NDNE Lower Falls LLC (the "Petitioner"). He said that present with him was Jack O'Neil, a principal from National Development (NDNE). Also present were Robert M. Corning, Jr., Registered Landscape Architect, and Frank Holmes, Registered Professional Engineer.

Mr. Davis said that the retail/office component of the proposed Project for 27 Washington Street has the same layout as the project approved pursuant to the 2008 Site Plan Approval (ZBA 2008-56).

Mr. Davis said that NDNE would not seek a restaurant use in excess of 4,500 square feet and that it would be located on the first floor of the retail/office building. He said that NDNE had a separate traffic calculation done which assumed a 4,500 square foot restaurant.

The Board said that the Board of Health had concerns about refuse disposal if there is to be a restaurant. The Board confirmed that recycling will be required if there is a restaurant use in the retail/office building.

The Board asked if moving the parking spaces against the building will affect the dumpsters space. Mr. O'Neil said that area has not changed generally from the previously approved project, ZBA 2008-56.

Mr. Corning said that the previous plan had parking along the edge but not along the entire length of the retail/office building. He said that NDNE created parking spaces along the length of the building in an effort to reduce garage parking and to meet the parking needs from a market perspective. The Board said that putting the additional parking up against the building is better from a safety perspective.

Mr. O'Neil said that the layouts for pedestrian circulation behind the retail/office building are consistent with the previously approved project, ZBA 2008-56.

Mr. Davis said that an eastbound turning lane has been added. He said that one or two parking spaces have been eliminated adjacent to Columbia Street to facilitate that access.

Mr. Davis said that there will be no change of use in the retail/office building from the approved project, ZBA 2010-56.

Mr. O'Neil said that the first floor, which is the retail space, has a total of approximately 17,000 square feet. He said that there will be a lobby and a corridor that will service the second floor. He said that there is a natural break point between a space that is greater than 10,000 square feet and a space that is less than 10,000 square feet. He said that the space that the Special Permit will address is from the corridor down, which is approximately 12,500 square feet. He said that it will not be for the entire floor.

#### Statement of Facts

The subject property is located at 27 Washington Street, in the Lower Falls Village Commercial District.

The Petitioner is requesting a Special Permit to use a portion of the retail/office building to be constructed at 27 Washington Street for individual retail space in excess of 10,000 square feet.

Application and Addendum to Application for Special Permit for Retail Store in Excess of 10,000 Square Feet at 27 Washington Street, dated 3/24/10, prepared by John J. O'Neil, III., NDNE, Layout and Materials Plan, L-1, dated 3/3/10, prepared by Robert M. Corning, Jr., Registered Landscape Architect, First & Second Floor Plans, dated 3/16/10, prepared by Elkus/Manfredi were submitted.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject use does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the opinion of the Zoning Board of Appeals (the "Board") that: (i) the proposed project meets the requirements of Section IXB.B.9 of the Wellesley Zoning Bylaws (the "Bylaws") to permit use for a retail store having 10,000 or more square feet of floor area; and (ii) the standards set forth in Section XXV of the Bylaws have been met, based on the findings set forth below.

1. Vehicular Circulation: The internal traffic circulation pattern has been designed so as to facilitate visibility for motorists and pedestrians using the parking area. Pedestrian sidewalks have been included in the layout of the parking facility to foster pedestrian safety.

Incident to the Applicant's development of the property, the Applicant, in concert with the Town, will be implementing a number of traffic mitigation measures which were carefully reviewed and approved as part of the PSI process before the Planning Board and the Board of Selectmen. These measures were specifically intended to enhance and improve traffic safety in the Washington Street corridor. These improvements, which will include a left-hand turn lane into the property for east-bound traffic, will reduce accident potential at the proposed driveway and at other intersections in the surrounding area. Accordingly, the circulation patterns for motor vehicles resulting from the project will not create conditions that add to traffic congestion or accident potential on the site or in the surrounding neighborhood.

2. Driveways: The driveway to service the project is not located within 50 feet of any street intersections and, accordingly, no favorable recommendation is required from the Town's Traffic Engineer.
3. Vehicle Queuing Lanes: The queuing lanes in both the parking areas and in the access drive equal or exceed nine feet in width. The layout of the parking, access drives and pedestrian improvements have been designed so as to not encroach on sidewalk areas or designated fire lanes or otherwise to interfere with the movements of vehicles either onto or exiting from the site or within the site.
4. Compatibility with Surroundings: The design of the retail/office building within the project is the same which has been vetted with and approved by the Design Review Board as part of Design Review Approval and with the Planning Board as part of the PSI process. The design and location of the Retail/Office Building is consistent with the recommendation contained in the Lower Falls Zoning, Urban Design and Landscape Guidelines conducted by the Town. Accordingly, the project is compatible with the existing natural and man-made features of the site and with the characteristics of the surrounding area; and the project, as designed, will provide adequate protection of trees and other natural features on the site.
5. Pedestrian Safety and Connection: The proposed project benefits from a wide road layout line along its Washington Street frontage. This widening allows for a generous sidewalk width along the property frontage. Closing the subject site's existing east side curb cut will further enhance pedestrian safety in the village area by elimination of one potential source of vehicular/pedestrian conflict.

Internal to the site, sidewalks are included from the parking areas to both proposed buildings/uses and to Washington Street where they connect to the sidewalk along Washington Street.

The project also will provide a pedestrian connection from Washington Street to the river utilizing both on-site property of the Applicant and a portion of the Town of Wellesley Right of Way.

Furthermore, the project will also result in certain off-site traffic, pedestrian and safety improvements. The existing Washington Street crosswalk near Ledyard Street and Glen Road will have a new pedestrian signal to enhance public safety. Additionally, the existing pedestrian signal located at Ledyard/Glen Road will be relocated to a slightly relocated Washington Street crosswalk in front of 15-21 Washington Street (CK Shanghai), together with certain curb modifications to enhance pedestrian visibility and safety.

Accordingly, the project has been shown to provide: (i) pedestrian and bicycle circulation in accordance with nationally recognized safety standards; and (ii) separation, including curbing and landscaped buffer areas, between pedestrian areas and all areas open to vehicular traffic on the site.

6. Noxious Uses: The proposed uses within the project are consistent with the provisions of Paragraphs A and B of Section XVI of the Bylaws in that such uses do not result in the circumstances that either (a) would be obnoxious, offensive, dangerous, or injurious to the public health or safety; or (b) would be injurious to the health, safety, morals or welfare of the community or harmful to property therein.
7. Intensity of Use: For the foregoing reasons, the uses and activities within the project will result in improvement to the character of the site and its surrounding area.

In the opinion of the Zoning Board of Appeals, the application meets the requirements of Section XXV.D of the Wellesley Zoning Bylaws, based on the above findings.

Therefore, a Special Permit is hereby granted, as voted unanimously by this Authority at the Public Hearing to allow a portion of the property to be constructed at 27 Washington Street to be used for individual retail space in excess of 10,000 square feet, subject to the following conditions.

1. This Special Permit shall not apply to restaurant uses within the Project.
2. The Board incorporates in this Decision the findings and conditions it has made in connection with the issuance of Site Plan Approval for the project (ZBA 2010-22).

This Special Permit shall expire two years from the date time stamped on this decision.

APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

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Richard L. Seegel, Chairman

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J. Randolph Becker

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David L. Grissino

cc: Planning Board  
Inspector of Buildings  
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